

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO: 453-04-4288.M5**

MDR Tracking Number: M5-04-0761-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 12, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed treatment.

This findings and decision is hereby issued this 11<sup>th</sup> of February 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 04/21/03 through 07/22/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 11<sup>th</sup> day of February 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

February 9, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION  
Corrected Letter B**

**MDR Tracking #: M5-04-0761-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medicine and rehabilitation. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 32 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work he fell off a ladder approximately ten feet to the ground, causing injury to his right wrist and right leg. An X-Ray of the right knee on \_\_\_ indicated that there was no significant evidence to suggest acute bony injury involving the knee. X-Rays of the right femur dated \_\_\_ revealed a severely comminuted fracture, with shortening and overriding segments, approximately 2-3cm, and a small thin fracture fragment at the distal third of the femur projecting posteriorly. The right wrist X-Ray dated \_\_\_ showed a transverse fracture through the distal aspect of the radius on the right side with the appearance of defect through the ulna styloid process that appeared well corticated. On 1/18/03 the patient underwent an open reduction internal fixation. A progress note dated 4/2/03 indicated that the patient was started on a therapeutic exercise program.

Requested Services

Therapeutic exercises and office visits from 4/21/03 through 7/22/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

#### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 32 year-old male who sustained a work related injury to his right femur on \_\_\_. The \_\_\_ physician reviewer indicated that he patient sustained a fracture of the right femur and underwent an ORIF on 1/18/03 followed by a course of physical therapy. The \_\_\_ physician reviewer explained that the patient initially had decreased range of motion in the right knee, decreased strength in the right hip, knee and calf muscles and used crutches for ambulation. The \_\_\_ physician reviewer noted that during treatment the patient advanced to ambulating independently without any assistive devices by 6/2/03, but that the patient's right hip strength still was not within normal limits, especially in abduction/extension and caused gait fatigue. The \_\_\_ physician reviewer indicated that the patient was not able to climb up or down stairs without assistance. The \_\_\_ physician reviewer noted that the next portion of therapy included work simulation activities consisting of climbing up and down a ladder, continued hip/knee strengthening and gait training. The \_\_\_ physician reviewer indicated that by 7/22/03 the patient reached his goals, near normal strength in the right hip/knee and able to climb up and down a ladder. The \_\_\_ physician reviewer explained that the patient showed constant progress and continued to require skilled physical therapy to ensure proper strengthening, range of motion and gait exercises. The \_\_\_ physician reviewer also explained that once the patient reached near normal strength/gait, he could continue exercises unsupervised. Therefore, the \_\_\_ physician consultant concluded that the therapeutic exercises and office visits from 4/21/03 through 7/22/03 were medically necessary to treat this patient's condition.

Sincerely,